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8 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 2009-285

12 **JANE CHIYO OSHITA**  
1932 11<sup>TH</sup> Avenue  
13 San Francisco, CA 94116

**ACCUSATION**

14 Registered Nurse License No. 241515  
Public Health Nurse Certification No. 28817

15 Respondent.  
16

17 Ruth Ann Terry, M.P.H., R.N. ("Complainant") alleges:

18 **PARTIES**

19 1. Complainant brings this Accusation solely in her official capacity as the  
20 Executive Officer of the Board of Registered Nursing ("Board"), Department of Consumer  
21 Affairs.

22 2. On or about February 28, 1974, the Board issued Registered Nurse License  
23 Number 241515 to Jane Chiyo Oshita ("Respondent"). The Registered Nurse License was in  
24 full force and effect at all times relevant to the charges brought herein and will expire on May 31,  
25 2010, unless renewed.

26 3. On or about August 28, 1979, the Board issued Public Health Nurse  
27 Certification No. 28817 to Respondent. The Public Health Nurse Certification was in full force  
28 and effect at all times relevant to the charges brought herein and will expire on May 31, 2010,

1 unless renewed.

## 2 JURISDICTION

3 4. Section 2750 of the Business and Professions Code ("Code") provides, in  
4 pertinent part, that the Board may discipline any licensee, including a licensee holding a  
5 temporary or an inactive license, for any reason provided in Article 3 (commencing with Code  
6 section 2750) of the Nursing Practice Act.

7 5. Code section 2764 provides, in pertinent part, that the expiration of a  
8 license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding  
9 against the licensee or to render a decision imposing discipline on the license. Under Code  
10 section 2811, subdivision (b), the Board may renew an expired license at any time within eight  
11 years after the expiration.

12 6. Code section 118, subdivision (b), provides, in pertinent part, that the  
13 suspension, expiration or forfeiture by operation of law of a license shall not deprive the Board of  
14 jurisdiction to proceed with a disciplinary action during the period within which the license may  
15 be renewed, restored, reissued or reinstated.

## 16 STATUTORY PROVISIONS

17 7. Section 2761 of the Code states:

18 "The board may take disciplinary action against a certified or licensed nurse or  
19 deny an application for a certificate or license for any of the following:

20 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

21 "(1) Incompetence, or gross negligence in carrying out usual certified or licensed  
22 nursing functions.

23 . . . .

24 8. California Code of Regulations, title 16, section 1442, states:

25 "As used in Section 2761 of the code, 'gross negligence' includes an extreme  
26 departure from the standard of care which, under similar circumstances, would have ordinarily  
27 been exercised by a competent registered nurse. Such an extreme departure means the repeated  
28 failure to provide nursing care as required or failure to provide care or to exercise ordinary

precaution in a single situation which the nurse knew, or should have known, could have jeopardized the client's health or life."

9. Code section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

## FACTUAL BACKGROUND

10. On or about September 9, 2007, Respondent was on duty as a registered nurse at Kaiser Permanente, Home Health, in San Francisco, California (Kaiser). Respondent was assigned to perform a nursing assessment on Patient A,<sup>1</sup> who was a patient in an assisted living facility, Buena Vista Manor, in San Francisco, California. Patient A's medical record documented that he was at a high risk for falls.

11. During the assessment, Respondent assisted Patient A to the bathroom by providing Patient A with “side-by-assistance,” with Patient A’s walker. Patient A became unsteady on his feet. Respondent left Patient A in the bathroom and went to retrieve a wheelchair from a bedroom. Patient A fell to the floor striking his head on the bathroom sink. At the time that Patient A struck his head, Respondent was approximately fifteen (15) feet away from Patient A.

12. Patient A sustained a scalp laceration. Respondent treated the laceration with “first aid.” Later in the day on September 9, 2007, the family of Patient A came to visit and found that Patient A’s laceration was bleeding. Patient A was taken to Kaiser Permanente Emergency for medical evaluation. The laceration was irrigated and sutures were placed.

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1. Initials are used in order to preserve confidentiality. Full patient names will be disclosed pursuant to a request for discovery.

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Gross Negligence)**

3 13. Respondent is subject to disciplinary action under section 2761(a)(1) of  
4 the Code, on the grounds of unprofessional conduct, in that on or about September 9, 2007, while  
5 on duty as a registered nurse for Kaiser, Respondent was guilty of gross negligence, within the  
6 meaning of Title 16, California Code of Regulations section 1442, in that she left Patient A  
7 unattended to retrieve a wheelchair from a bedroom, as set forth in paragraphs 9 through 11,  
8 above.

9 **SECOND CAUSE FOR DISCIPLINE**

10 **(Gross Negligence)**

11 14. Respondent is subject to disciplinary action under section 2761(a)(1) of  
12 the Code, on the grounds of unprofessional conduct, in that on or about September 9, 2007, while  
13 on duty as a registered nurse for Kaiser, Respondent was guilty of gross negligence, within the  
14 meaning of Title 16, California Code of Regulations section 1442, in that, after Patient A struck  
15 his head and sustained a scalp laceration, Respondent failed to either call 911 or immediately get  
16 a physician's order regarding the appropriate interventions.

17 **PRAYER**

18 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
19 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

20 1. Revoking or suspending Registered Nurse License Number 241515, issued  
21 to Jane Chiyo Oshita;

22 2. Revoking or suspending Public Health Nurse Certification Number 28817,  
23 issued to Jane Chiyo Oshita;

24 3. Ordering Jane Chiyo Oshita to pay the Board of Registered Nursing the  
25 reasonable costs of the investigation and enforcement of this case, pursuant to Code section  
26 125.3;


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4. Taking such other and further action as deemed necessary and proper.

DATED: 5/11/09

  
RUTH ANN TERRY, M.P.H., R.N.  
Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant